



United States Department of Agriculture
Food and Nutrition Service

Midwest Region

Reply to
attn of:

SA 09-3

Subject:

School & Summer Food Service Programs
First Quarter FY 2010 Q&As, October – December 2009

To:

State Directors
Child Nutrition Programs

Attached are the School & Summer Food Service Programs Q&As for the first quarter of FY 2010, covering October – December 2009. These questions were directed to our staff by the Midwest Region State agencies.

We will provide you with Q&As each quarter, as they are intended to clarify or cite existing policy or instructions, which may then be consulted by your staff. Q&As do not, however, introduce new policy.

If you have any comments or questions, please contact this office.

A handwritten signature in cursive script, reading "Julie Mikkelsen", is positioned above the typed name.

JULIE MIKKELSON
Regional Director
Special Nutrition Programs

Attachment

Special Nutrition Programs, Midwest Region
School and Summer Food Service Programs
First Quarter FY 2010 Questions and Answers
October-December 2009

Applications for Free and Reduced-Price Meals

1. Q. A sponsor was at a meeting and heard from a speaker that for any day of the month that a student is approved for meal benefits, the meal benefits in the NSLP may be retroactively made to the first of the month. Is this correct?

A. No, approval of free and reduced price meal benefit applications in the NSLP may not be made retroactively to the first of the month. The FNS MWRO has no information that there is a rule coming out which would allow for retroactive approval of meal benefit applications in the NSLP.

2. Q. In a split custody situation in which the child resides with the mom (who lives out of state) on weekends and with the dad on weekdays, can the mom complete the application of behalf of the child?

A. Although the FY 95 School Programs Section Policy Memorandum #2 (Determining Eligibility in Joint Custody Cases) has partially been superseded, the intent is still valid. Since the child resides with the mother part-time, her submission of an application is acceptable. Also, the use of an out-of-state SNAP (formerly food stamp) number is acceptable based on Q&A #2 of the 1st Quarter FY 1999 Q&As.

3. Q. In efforts to “go green”, our schools are looking to reduce paper usage. What are the minimum requirements for parental notification of school meal programs availability so that the least amount of paper gets sent to households?

A. The FNS requirements state that a letter must be distributed to the households of children before the beginning of each school year. This letter explains to families which nutrition programs are available. The letter must explain how to obtain and submit a paper application. This may be done by including a telephone number or a form to return requesting that an application be sent. All LEAs must be able to provide households with a paper application and materials. However, households have an option to complete computer or web-based application processing. How to access the computerized system must be provided in a letter to inform households of this option. Please reference 7 CFR Part 245.6(a)(3), “Electronic Availability,” for computerized system requirements.

4. Q. Must schools send out a notification letter to all households when the school policy is that “back to school items” are posted on their website?

A. Yes, schools must send out a notification letter to all households, usually around mid-July through early September. Letters cannot be sent to households at the end of the school year for the next year, nor can the LEA begin processing applications

before the beginning of the federally defined school year July 1st through June 30th. Please reference the Eligibility Manual for School Meals on pages 7-8.

5. Q. Can an LEA notify households through an auto dialing message system that they qualify for free meals through direct certification and therefore, they do not need to submit an application? Can the LEA also establish an auto dialing message system for the household to notify the district that they do not want free benefits?

A. No, regarding notification to households through an auto dialing message system. Per 7 CFR Part 245.5(a)(1), except as provided in 7 CFR Part 245.6(b) about direct certification, a letter or notice and application must be distributed on or about the beginning of each school year to the parents of all children in attendance at school.

7 CFR Part 245.6(c)(6)(ii) Direct Certification states that “Households approved for benefits based on information provided by the appropriate State or local agency responsible for the administration of the Food Stamp Program, FDPIR or TANF Program must be notified, in writing, that their children are eligible for free meals or free milk, and that no application for free and reduced price schools meals or free milk is required.”

The Eligibility Manual for School Meals on page 49 states that the LEA’s must ensure that households receive either a direct certification notification or an application for free and reduced price meals. Therefore, LEA’s that send out a notice of direct certification are not required to send an application to the household.

When discussing this issue it was brought to our attention that the Eligibility Manual for School Meals and the regulations do not make the same statements for notifying the household of eligibility approval. The Eligibility Manual for School Meals on page 23, under K, Notification of Eligibility Determination, states that “All households must be notified of their eligibility status.” In addition, it clarifies that “Household with children who are approved for free or reduced price benefits may be notified in writing or orally.”

Upon further clarification from our Headquarters’ office, we encourage LEAs to continue to provide written notification of eligibility status to households. Oral communication is acceptable, but a record for each of the contacts made must be documented. An auto dialing message system is an acceptable form of oral communication, if it creates a record of each contact made. However, the regulations require written notification for a denial of benefits and for notification of eligibility through direct certification. The regulations must be followed in this regard.

An auto dialing system may be established for the household to notify the District that they do not want free benefits. 7 CFR Part 245.6(c)(6)(iii) states that “Any notification from the household declining benefits must be documented and maintained on file, as required under paragraph (e) of this section, to substantiate the eligibility determination.”

Commodities

6. Q. In Policy Memorandum FD-80 (Guidance in Crediting for, and Use of, Donated Foods in Contracts with Food Service Management Companies), it says that “When the contract terminates, and is not extended or renewed, the FSMC must return unused donated ground beef, ground pork, and all processed end products [to the SFA]....” Does this mean only processed end products that contain donated beef and/or pork?

A. No. The food service management company (FSMC) must return all unused processed end products when its contract with a school food authority (SFA) terminates, and is not extended or renewed, not just those end products containing donated ground beef and/or pork. This requirement is in 250.52(c), as well as in Q. #30 of Policy Memo FD-080.

Coordinated Review Effort (CRE)

7. Q. Is there a discrepancy between what is noted on our State agency’s G-1 review form and what is stated in the MWRO FY 2008 4th Quarterly Q & A #34?

On our State agency’s review form, it states that “if an error is found in a non-CRE school, require corrective action but no fiscal action assessed.” According to #34, “fiscal action for verification errors must be calculated for all affected students, regardless of the school they attend in the SFA.”

A. The answer is given in the MWRO FY 2008 4th Quarter Q & A #34, i.e. fiscal action is assessed for all students listed on the application that are enrolled within the SFA in both reviewed and non-reviewed schools. In the future, the CRE manual will be updated to clarify this issue.

8. Q. Can you please provide some situation in which the FA-7 form would be used?

A. Per the forms instructions, this form is used to assign ineligible meals, meals missing menu items/food items, and incomplete meals for the day of review findings from S-1, 17, 18, and 19. This form is also used, when necessary, for assigning meals from S-7 and S-8 for missing menu items/food items for the review period and other claim periods.

9. Q. Our State agency is pursuing cost efficient/effective opportunities to streamline processes and costs. Can portions of site visits and/or entire reviews be contracted out, with final review and sign-off done by State staff? SAE regulations [7 CFR Part 235.6(a-1)] do not appear to be clear on whether contracting out the monitoring requirements of our work would be allowable.

A. It is allowable for a State agency to contract out their review work, including CRE site visits. At the same time, the SA must ensure that the contractors are of equal qualifications as their regular staff and that they have provided training to the contractors to enable them to accomplish the CRE reviews timely, efficiently and correctly.

Eligibility

10. Q. Two school districts are consolidating. There was one middle school (Middle School A & B) in each district. There is now one middle school (Middle School C) for the two districts comprised of students from both districts. The previous October F/R enrollment data from Middle School A does not qualify them for Area Eligibility (free snacks), but Middle School B had 76% F/RP eligibility. Can the Area Eligibility (free snacks) be extended to the new Middle School C? An elementary and high school are in the attendance area of the new middle school this year and both definitely qualify for free snacks. Does the 50% F/RP eligibility have any bearing on the new middle school's ability to get the higher rates?

A. An afterschool program site is "area eligible" if it is located at a school or in the attendance area of a school (i.e., elementary, middle or high school) which has at least 50 percent of its enrollment eligible for free or reduced price meals. For example, if a high school with less than 50 percent free or reduced price enrollment is located in the attendance area of a middle school that has 50 percent or more of the enrolled children eligible for free or reduced price meals, then the afterschool care program located in the high school would be area eligible.

Snacks served in area eligible afterschool program sites under the NSLP are reimbursed at the free rate. Afterschool care programs that are not area eligible receive free, reduce price and paid reimbursements depending on the eligibility status of participating children. Rates are adjusted annually.

11. Q. A school district's data base contains all of the students who are in 4K who are receiving services from the district or are at local daycare or Head Start programs. If one of those children are directly certified, but they are not feeding them (they are at daycare and do not have access to school lunch or breakfast), are other children in the household who are in the district and are being fed (they have access to lunch and breakfast) eligible for free meals based on the 4K student's direct certification status? Or does the district just disregard any student who is directly certified who does not have access to lunch and breakfast?

A. If the only children identified through direct certification are not attending school, the LEA may extend eligibility to school children in that household to the extent possible. The LEA is not required to extend eligibility unless it is capable of linking the two groups of children.

Fresh Fruit and Vegetable Program (FFVP)

12. Q. Must States use October data for determining F/R percentages when selecting schools for participation? Can they use any month they feel appropriate given the current economic situation of the State? The FFVP Handbook is silent on this issue.

A. The State does not have to use October data. They can use any month after October they feel is appropriate, provided they have the data and the entire State uses the same month.

13. Q. Can FFVP funds be used to repair equipment which was originally purchased with FFVP grant funds?

A. Equipment used for the FFVP can be repaired with FFVP funds under the same “10% of school total grant” restriction for administrative costs.

14. Q. Can students in an early childhood program (3 year old) and a junior kindergarten (4 year old), participate in the FFVP? Page 7 of the FFVP Handbook extends eligibility to students who are in a HeadStart program, split-kindergarten, or a child care center located within an elementary school. The 3 and 4 year olds in question are not part of such programs. Would they be able to participate?

A. The 3 and 4 year olds can participate in the FFVP if their “class” is in an elementary school operating the FFVP.

15. Q. Can FFVP schools serve homemade low fat dips? This would involve the reimbursement of ingredient items such as canola oil, low fat mayonnaise, milk, spices or a spice packet, fresh herbs and ginger. Schools are pleading that the homemade dip would serve as both a cooking demo and a more healthy option.

A. The use of homemade dips is a reasonable FFVP expense. However, please remember that dip is only for vegetables and the portion sizes must be small. Schools should also try to serve some vegetables without dips. Carrots and celery are traditionally the most palatable.

Meal Crediting

16. Q. Is popcorn creditable as a grain/bread? If not, why? 15 grams of popped corn is 1.5 cups, and I see several schools serving it as part of the meal pattern.

A. No. Although popcorn is a healthy whole grain snack (without added butter), it is not a creditable Grain/Bread in the NSLP. That is because it is considered a “snack” food. See Section 2-4 of the *Food Buying Guide*.

National School Lunch Program (NSLP)

17. Q. Charging interest on unpaid meal accounts basically allows the interest charge for paid students, but not reduced price students, as it could mean that the reduced price student would pay more than \$.40 per meal. Does this also apply to NSF (nonsufficient funds) checks/fees?

A. A school district can charge the families of paid students interest on unpaid meal accounts, but not the families of reduced price students, unless the price of a reduced price meal at that school district is less than 40 cents for lunch or less than 30 cents for breakfast, and the cost of these meals does not exceed 40 cents or 30 cents, even when accrued interest payments are added in. Therefore the school district may charge the family/account for fees assessed by the bank or other company due to NSF funds (returned checks), but not for free or reduced students unless the 30/40 cents per meal is not exceeded. In addition, if a family has declared bankruptcy and

has included the SFA among its creditors, it is not obligated to pay what is owes to the food service account.

18. Q. In the revised version of the Food Buying Guide, it appears that the 1% milk rule still applies per the following text: *“The selection of the types of milk offered must be consistent with the types of milk consumed in the prior year. This requirement does not preclude schools from offering additional kinds of milk. However, in the event that a particular type of milk represents less than one (1) percent of the total amount of milk consumed in a previous year, a school may elect not to make this type of milk available. Schools are encouraged to offer a wide variety of milks.”* Is this correct?

A. No, the 1% rule no longer applies. This will be edited and the revised version will be included in the FBG replacement pages. Schools are required to serve milk in a variety of fat contents. For more information refer to memo: *FY 04 School and Community Nutrition Programs Policy Memorandum #04-32 Fluid Milk Provisions -- Reauthorization 2004: Implementation* dated September 16, 2004.

19. Q. A state has a facility that is not licensed as a Residential Child Care Institution (RCCI), but is licensed as a “Youth Emergency Shelter”. The State’s definition of “Youth Emergency Shelter” is a child care facility licensed by the Department to provide shelter care services, including overnight shelter and referral for other shelter care services, to homeless youth from 14 to 18 years of age and their children. Would this facility licensed as a “Youth Emergency Shelter” be eligible to participate in the NSLP or SBP as an RCCI?

A. The answer in Q&A#5 of the FY 2002 Second Quarter Q&As would apply in the case of a “Youth Emergency Shelter” because pursuant to the State definition, the “Youth Emergency Shelter” provides overnight shelter for homeless youth from 14 to 18 years of age.

The answer in Q&A #5 states that homeless shelters are eligible to participate in the NSLP as an RCCI if the institution meets the following criteria:

- Is public or nonprofit;
- Operates principally for the care of children;
- Is residential;
- If private, is tax exempt under Section 501(c)(3) of the Internal Revenue Code of 1954, i.e., nonprofit;
- If private, is licensed by the State to provide residential child care and is having the residing children located in a distinct part of the institution designed primarily for the continuous use of children.

A distinction is made in Q&A # 5 as stated above, between a public and private nonprofit institution. If the “Youth Emergency Shelter” is a public institution, then it must be residential and operate principally for the care of children but does not have to be licensed by the State to provide residential child care.

However, if the “Youth Emergency Shelter” is a private nonprofit institution, then it must be residential, operate principally for the care of children, be tax-exempt under

Section 501(c)(3), and be licensed by the State to provide residential child care. Because the definition of “Youth Emergency Shelter” does not state that it is licensed to provide residential care to children, then if the “Youth Emergency Shelter” is private nonprofit, it would not be eligible to participate in the NSLP.

This answer in Q&A number 5 of the FY 2002 second quarter Q&As is based upon paragraph (c) of the definition of “School” at 7 CFR 210.2, and page 16 of the USDA FNS “Guidance for RCCIs” dated 10/93.

20. Q. A religious based school just completed a fasting period (Ramadan). Although the school itself has been in operation since the end of August, the meal program has not been in operation since the kids were not permitted to eat from sunrise to sunset. School staff members want to know if they can carry over the eligibility determination of the students from last year for the first 30 operating days of the NSLP program.

What is the definition of operating days (referenced on page 15 of FNS’ Eligibility Manual for School Meals), operating days of the school specifically or is it the operating days of the NSLP?

A. Per 7CFR, Section 210.1(a), Schools have an obligation under the NSLP to serve reimbursable school lunches everyday that schools are in session. They need to run the food service including doing the necessary paperwork even though they may not be serving during Ramadan. Additionally, all children in the school may not observe the fasting and in that case the food service must be able to serve a reimbursable meal to those who do not fast and parents should be notified of this.

As for the definition of operating days, it begins with the first day of school and includes all days that school is in session. It is not based on the number of operating days of the NSLP.

21. Q. Are schools required to have two food safety inspections completed each year, and are local program operators required to request inspections from the public health department and document their efforts? In addition, please clarify the ramifications of non-compliance with the inspection requirement.

A. Schools must obtain a minimum of two food safety inspections during each school year per 7 CFR Part 210.13(b). This was reiterated in the Final Rule (School Food Safety Inspections) published in the Federal Register on September 2, 2009. Exceptions to this requirement for non-traditional school settings are outlined in Policy Memo SP 05-2008 (Food Safety Inspections in Non-Traditional School Settings). Local program operators are required to request inspections from the public health department and document their efforts per Policy Memo SP 39-2008 (Responsibility to Request Food Safety Inspections). The ramifications of non-compliance with the inspection requirement are outlined in Q&A #6 of the unnumbered Policy Memo issued by FNS on July 12, 2005 (Food Safety Questions and Answers). In addition, if non-compliance with the inspection requirement (a general, rather than critical area finding) is discovered during an administrative review, the SA must obtain corrective action from the SFA per 7 CFR Part 210.18(k). The SA may withhold program payments at its discretion per 7 CFR Part 210.18(l)(1)(iv).

Offer Versus Serve (OVS)

22. Q. Are schools with a unitized (prepackaged) lunch or breakfast that contains the required food items with the exception of the milk component allowed to follow a policy that permits students to decline a required item?

A. Yes, in this situation the student may decline the milk.

23. Q. Is it acceptable for students to decline only the milk component of the meal?

A. Yes, students can decline only the milk component of the meal. SFA's with preplate systems may participate in the offer vs. serve provision within limits. The intent for permitting offer vs. serve is to allow students to refuse food items they do not intend to consume. The objective is to reduce food waste and food costs resulting from that wasted food. Preplate delivery must have some choices, so schools are allowed to implement offer vs. serve as long as students take at least three full component portions.

Procurement

24. Q. Is there anything in federal regulations that prohibits an electronic process for communicating, accepting, and opening competitive sealed bids?

A. No. The federal regulations pertaining to the School Nutrition Programs and procurement by local government agencies and private nonprofit organizations under the School Nutrition Programs do not prohibit an SFA from using an electronic sealed bidding process. However, the SFA and the State agency through its oversight function must ensure that all federal, state and local procurement rules and regulations are still met if an SFA uses an electronic sealed bidding process. The electronic sealed bidding process must allow for full and open competition consistent with the standards at 7 CFR 3016.36 and 3019.43, and must conform to the requirements for sealed bidding at 7 CFR 3016.36(d)(2).

As recommended in USDA FNS Policy Memorandum # SP 10-2007, "Update on Electronic Transactions in the Child Nutrition Programs" dated May 1, 2007, SFAs should review their State's statutes and policies regarding electronic transfer of information in State-administered Federal programs. The Q&As in Policy Memorandum # SP 10-2007 may be helpful to States in assisting SFAs who wish to use electronic sealed bidding for procurements. The Q&As provide general guidance on the use of electronic signatures and the use of electronic transactions for Child Nutrition Programs (CNP), and provide a framework for State agencies and SFAs to implement their own systems and establish their own policies which must ensure the legal sufficiency of the information and signature provided. State agencies and SFAs should review their respective State and local laws on electronic transactions with their State and/or local counsel.

Special Needs

25. Q. Is a school required to accommodate students' dietary requests due to religious reasons?

A. The regulation at 7 CFR 210.10(g)(3) *Variations for ethnic, religious, or economic reasons* states that schools "should" consider ethnic and religious preferences when planning and preparing meals. Therefore, a school should, but is not required to, accommodate students' dietary requests due to religious reasons. It should be possible for a school to meet students' religious dietary needs and still meet the meal pattern requirements of 7 CFR 210.10. For example, if a student does not eat pork for religious reasons, then the school should easily be able to provide chicken, beef, or another meat alternate.

Also note that the regulation at 7 CFR 210.10(g)(2)(i) allows schools at their option to make substitutions for fluid milk for non-disabled students who cannot consume fluid milk due to medical or special dietary needs. A medical authority or the student's parent or legal guardian must submit a written request for a fluid milk substitute identifying the medical or other special dietary need that restricts the student's diet. In accordance with Q&A # 13 of FNS Policy Memorandum # SP 07-2010, "Q&As: Milk Substitution for Children with Medical or Special Dietary Needs (Non-Disability)" dated November 12, 2009, a request due to a milk allergy, vegan diet, as well as religious, cultural, or ethical reasons would be acceptable and could be accommodated. Schools that choose this option may offer the nondairy beverage of their choice, provided the beverage meets the nutritional standards established under 7 CFR 210.10(m).

State Administrative Expense (SAE)

26. Q. Can SAE funds be used to purchase nutrition education or promotion items on behalf of local SFAs?

A. No. Consistent with legislative and regulatory authority, SAE funds may only be used to support State agency administrative costs. These costs include those associated with the management and oversight of Child Nutrition Programs at the State level – not those associated with the actual delivery of benefits to specific program recipients. Expenditures on the behalf of local SFAs are not among the allowable uses. While FNS applauds nutrition education efforts, SAE funds may not be used for nutrition education or promotion items that do not benefit the overall administration of the programs at the State level. SFAs may, however, use the nonprofit school food service account funds for these items when modest costs are involved, and as long as the activities are deemed necessary, reasonable, and allocable in accordance with the Office of Management and Budget Circular, A-87, "Cost Principles for State, Local, and Indian Tribal Governments."

Summer Food Service Program (SFSP)

27. Q. Since the guidance on tax-exempt status of SFSP sites provided in FNS Instruction 776-6 REV. 1 “Tax-Exempt Status for Summer Food Service Program Sites” is dated February 13, 1987, can the USDA FNS provide some additional clarification on the nonprofit status requirement of an SFSP site?

A. Question and Answer (Q&A) # 8 of FNS Policy Memorandum SFSP 03-2009 Revised, dated Sept. 24, 2009, entitled: “Transmittal of Guidance on the Summer Food Service Program”, explains that private nonprofit sponsors must be tax- exempt under the Internal Revenue Code of 1986 in order to be eligible to participate in the SFSP. FNS Instruction 776-6 REV. 1 is still current, and clarifies that nonprofit status is required for sites to participate in the SFSP. However, regulations do not require that sites obtain tax-exempt status from the Internal Revenue Service (IRS). Under many circumstances, the tax-exempt designation of the sponsor applies to the sponsored sites that are directly affiliated with the sponsor.

FNS Instruction 776-6 REV. 1 addresses SFSP sites that do not assume their sponsor’s tax-exempt status such as unaffiliated sites like recreation centers and parks that are a legally distinct entity from the sponsoring organization. Unaffiliated sites must be nonprofit, but it is not required that their tax exemption be documented by the IRS.

28. Q. In reference to the answer in the preceding question that unaffiliated SFSP sites must be nonprofit but do not have to have documentation of tax-exempt status from the IRS, how would a State know that an unaffiliated site is nonprofit if not documented by the IRS?

A. There is no one standard organizational structure, or method in general that States will be able to use to ensure a site’s nonprofit status. State agencies will need to evaluate each proposed unaffiliated site on a case-by-case basis. States may be able to make a determination based upon their familiarity with the site’s purpose for existence (a community recreation center versus a private health club), or a site’s organizational structure (a volunteer board of PTA parents versus a business owner). However, these identifying features in and of themselves would not exclude a profit-making venture. States should also evaluate how the site intends to operate. If the sponsor reimburses the site for the meals it serves to children, if the site serves and charges adults for meals, or in any other way generates income from the SFSP, then the funds must be solely used for the Program and not be kept as profit or redistributed away from operation of the Program. If after this careful consideration, a State is unable to determine if a site is nonprofit, then it should deny participation.

29. Q. Can an SFSP sponsor purchase food for the SFSP from a foodbank? If so, is there a limitation on the percentage of food the sponsor can buy through a foodbank?

A. Neither the SFSP regulations, FNS Instructions, or SFSP policy guidance memoranda have a prohibition on SFSP sponsors purchasing food for the SFSP from a foodbank. Additionally, neither the SFSP regulations, FNS Instructions, or SFSP policy guidance memoranda set a maximum limit on the amount or percentage of food a sponsor can purchase from a foodbank. SFSP regulations and guidance do require that from whatever source(s) the sponsor obtains food, the meals it prepares

must be nutritious and meet the SFSP meal pattern requirements.

30. Q. Can a State put a percentage cap on an SFSP sponsor's administrative expenses?

A. Neither the SFSP regulations, FNS Instructions, or SFSP policy guidance memoranda set a cap on administrative expenses of SFSP sponsors, nor do they prohibit one. As explained on page 70 of the SFSP 2009 Administrative Guidance for Sponsors handbook from the USDA, State agencies may establish additional program requirements; however, they must be consistent with the regulations, and they may not deny program benefits to otherwise eligible institutions, areas or participants. Therefore, a State could set a percentage cap on an SFSP sponsor's administrative expenses if this does not deny program benefits to an otherwise eligible institution or participant.

The State should consider though how such a percentage cap on administrative expenses would be applied fairly in the case of each sponsor. The FNS MWRO is open to discussing how such a cap on sponsor administrative expenses would be implemented.

31. Q. Is there any USDA FNS guidance on foods, other than USDA donated commodities, that are donated to the SFSP? For example, can someone donate a gallon of milk or ten cans of peaches to the SFSP? Can a State have an SFSP sponsor complete a donation form which includes an approximate value of the donation?

A. Yes, a sponsor can accept donations. Like funds accruing to the Program, donations should be documented. Therefore, the State can have sponsors complete a donation form which includes the approximate value of the donation, but this value should not be deducted from the sponsor's reimbursement.

Page 69 of the SFSP 2009 Administrative Guidance for Sponsors handbook lists unallowable costs for which Program funds may not be used. The third bullet from the top of that page states that Program funds may not be used to pay for USDA commodities or other donated foods, nor for labor or other supplies that are donated to the Program. If a service or supply is donated to the Program, then the person(s) donating the service or supplies should not be reimbursed with any Program funds.

In accepting donated foods such as a gallon of milk, the sponsor must, in accordance with its agreement with the State agency, maintain, in the storage, preparation, and service of food, proper sanitation and health standards that conform with all applicable State and local laws and regulations.

32. Q. The State is changing their software for the SFSP application and would like to know if they should maintain the National Youth Sports Program (NYSP) as a selection for type of sites. They have one NYSP, which is funded under state funds. We understand that Congress did not fund the NYSP under the SFSP for the last few years. However, the 7CFR 225.14 regulations have not been changed. Should we still require the State to include NYSP as a selection for type of sites on their SFSP applications and adhere to the regulations?

A. The NYSP did not receive funding from Congress in 2008 or 2009. However, colleges, and universities that previously sponsored NYSP had the option to continue to offer the program if they could absorb the costs associated with offering the program while still adhering to the participant eligibility requirements. Further, institutions participating in the NYSP are still included as eligible institutions in the statute. Therefore, we recommend that the State keep the option as a type of site on the SFSP applications.